

REMARKS

Claims 1-14, 16-22, 24-28, and 30-39 are pending in the application. No claims have been cancelled. Claims 24 and 25 have been amended. No claims have been added. Claims 1-14, 16-22, 24-28, and 30-39 accordingly remain pending in the application.

35 U.S.C. § 102 and 103(a) Rejections

Claims 1-7, 16-21, 30, 33, and 35-38 stood rejected under 35 U.S.C. §102(e) as being anticipated by Krishnan (US 6,961,341). Claims 8-14, 22, 24-28, 34 and 39 stood rejected under 35 U.S.C. §103(a) as being unpatentable over Krishnan (US 6,961,341) and Smith (US 5,878,224). Claims 31 and 32 stood rejected under 35 U.S.C. §103(a) as being unpatentable over Krishnan (US 6,961,341) and “Getting Started with the Java Dynamic Management Kit 4.2” (DMK). Applicant respectfully traverses these rejections and requests reconsideration in view of the following discussion.

For example, claim 1 has been amended to include features of prior claim 3. As amended, claim 1 recites a method that includes, in part:

“c. starting rejection of input requests, upon verification of a third condition, wherein the third condition comprises (i) determining a predetermined grace period subsequent to verification of the first condition has elapsed, and (ii) determining the second condition has not been verified during said grace period”

As seen from the above, starting rejection of input requests occurs upon verification of a condition which includes (i) determining a predetermined grace period subsequent to verification of the first condition has elapsed, and (ii) determining the second condition has not been verified during said grace period. In contrast, Krishnan discloses determining whether an average bandwidth exceeds either a first or second threshold. If the bandwidth exceeds the first threshold but not the second, then a first throttling action is taken. If the bandwidth exceeds both the first and second threshold,

then a second throttling action is taken (described as a hierarchical throttling strategy). For example,

“The BT system 70 preferably employs an adaptive, hierarchical throttling strategy. In one preferred technique, the administrator establishes threshold zones based on the threshold T and an offset value .delta. above and below the threshold T (i.e., $T + - .delta.$). The result is a three-zone control area subdivided by two thresholds (i.e., $T - .delta.$ and $T + .delta.$).”

FIG. 11 illustrates the tiered control strategy. The vertical axis represents bandwidth usage, measured in terms of I/O activity as the number of bytes being passed to or from a virtual object within a predefined timeframe. If the bandwidth being used by the virtual service is less than the first threshold (i.e., the first zone), no throttling actions are taken. If the bandwidth usage exceeds the first threshold but is less than the second threshold (i.e., the second zone), a first set of throttling actions is taken. If the bandwidth usage exceeds a second threshold higher than the first threshold (i.e., the third zone), a second set of throttling actions is taken.” (Krishnan, col. 15, lines 39-56).

As may be seen from the above, Krishnan measures bandwidth usage and identifies a corresponding zone. Throttling action is based on the identified zone. Nowhere does Krishnan disclose or suggest rejection of input requests is responsive to determining a predetermined grace period subsequent to verification of the first condition has elapsed, and determining the recited second condition has not been verified during said grace period. For at least these reasons, claim 1 is patentably distinguishable from the cited art. As claims 16, 35, and 36 include features similar to those discussed above, each of claims 16, 35, and 36 is patentably distinguishable for at least the above reasons as well.

In light of the foregoing amendments and remarks, Applicants submit that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner’s convenience.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5681-78600/RDR.

Respectfully submitted,

/ Rory D. Rankin /

Rory D. Rankin
Reg. No.
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin,
Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800

Date: May 18, 2009